

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

IEHAB HAWATMEH, et al.,

Plaintiffs

v.

CITY OF HENDERSON, et al.,

Defendants

Case No.: 2:22-cv-01786-APG-DJA

**Order Granting in Part Defendants’
Motion to Dismiss**

[ECF No. 60]

Plaintiffs Iehab, Yasmeen, and Layth Hawatmeh, as well as Iehab as administrator of the estate of Joseph Hawatmeh, sue the City of Henderson, the Henderson Police Department (HPD), and several HPD officers after 12-year-old Joseph Hawatmeh was killed during a hostage situation. I previously dismissed their federal claims alleging First, Fourth, Fifth, and Fourteenth Amendment violations under 42 U.S.C. § 1983. Finding no federal claims to establish federal jurisdiction, I did not address the Hawtmehs’ state law claims. The Hawatmehs amended their complaint, including a new claim for excessive force in violation of the Nevada Constitution, and the defendants now move to dismiss the amended complaint. Because the Hawatmehs have still not plausibly alleged a federal cause of action, I dismiss their federal claims and I decline to exercise supplemental jurisdiction over the state law claims. Thus, I dismiss the state law claims without prejudice to the plaintiffs bringing them in state court.

I. BACKGROUND

I previously described these tragic events in detail and incorporate that previous description into this order. ECF No. 54 at 2-4. In summary, Joseph, his mother Dianne, his sister Yasmeen, and two housekeepers were confronted in their apartment by their neighbor, Jason Neo

1 Bourne.¹ Bourne shot and killed Dianne and one of the housekeepers, Veronica Gonzalez, and
2 severely wounded Yasmeen. He then took the keys to Dianne's Cadillac Escalade and brought
3 Joseph to the vehicle at gunpoint. Bourne held Joseph hostage in the parked Escalade outside the
4 apartment while Bourne called 911 from Joseph's cell phone. The surviving housekeeper and a
5 neighbor also called 911.

6 HPD officers arrived within minutes of the first 911 call and located the Escalade with
7 Bourne and Joseph. HPD Sergeant Smith was in charge of the scene and establishing a
8 perimeter. She informed dispatch and other officers that she could see a 12-year-old child in the
9 passenger seat and that Bourne had a gun. Smith also asked for stop sticks (tire deflation
10 devices) over the radio. At one point Smith yelled for Bourne to step out of the vehicle, but
11 Bourne did not react. The windows were rolled up, and the transcript of the 911 call placed from
12 inside the vehicle does not reflect any sound from Smith. Smith asked dispatch to see if Bourne
13 would roll down the window, but that command was never relayed to Bourne.

14 The Hawatmehs' first amended complaint (FAC) alleges further details about how the
15 HPD officers first surrounded the vehicle. When they arrived on scene and identified the
16 Cadillac Escalade, the vehicle was parked in a parking space facing a block wall. At least
17 sixteen HPD officers completely surrounded the sides and rear of the vehicle. Police vehicles
18 blocked the parking lot road approximately five to ten yards behind the Escalade, as well as the
19 entrance to the apartment complex preventing all access in or out. Bourne did not move the
20 Escalade from this parking spot at any time and did not attempt to flee. HPD Sergeant Smith
21 shouted at the Escalade, "Let me see your hands, both of you. Put your hands up, exit the
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¹ All facts are taken from the first amended complaint (ECF No. 59).

1 vehicle.” ECF No. 59 at 37. Smith subsequently announced over the radio that she saw a gun
2 and “the child has his hands up.” *Id.* at 38.

3 Smith communicated with HPD Officers Duffy and Pendleton to “take the shot if you
4 have it.” *Id.* at 39. Immediately after Smith’s command, Pendleton fired a single shot at Bourne.
5 Joseph screamed, and a second later, two additional gunshots sounded, followed by a volley of
6 gunfire from the officers, during which Smith was repeatedly yelling “stop” and “ceasefire.” *Id.*
7 at 31, 39. Officers fired a total of 28 shots, and both Bourne and Joseph were killed. Joseph was
8 shot twice in the head, once in the chest, and once in the leg. Just prior to the first shot being
9 fired, the 911 transcript reflects Bourne stating “I’m a shoot him in the brain” and Joseph
10 screaming “[j]ust please, don’t shoot me.” *Id.* at 31.

11 The FAC also elaborates on HPD’s subsequent investigation and internal training
12 procedures based on the deposition of former HPD Investigator Raymond Wilkins, a member of
13 HPD’s Critical Incident Review Unit (CIRU). Wilkins testified that HPD had known training
14 deficiencies for dealing with barricaded suspects, vehicle assaults, and hostage rescue. He
15 further described a practice at HPD of concealing or destroying information used by CIRU and
16 the chief of police, as well as officers failing to read department policies and merely scrolling to
17 the bottom of computer-based training and signing without reading. HPD and City leadership
18 knows about this practice because the computer keeps track of when officers open and sign the
19 documents. Wilkins was highly critical of Smith’s decision-making and leadership during this
20 incident and claims that HPD was aware of Smith’s deficiencies. And Wilkins testified that the
21 scene was not “fast moving” because the vehicle and Bourne were contained and there was time
22 to wait for the SWAT members and hostage negotiators to arrive. *Id.* at 49-50.

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II. DISCUSSION

In considering a motion to dismiss, I take all well-pleaded allegations of material fact as true and construe the allegations in a light most favorable to the non-moving party. *Kwan v. SanMedica Int'l*, 854 F.3d 1088, 1096 (9th Cir. 2017). However, I do not assume the truth of legal conclusions merely because they are cast in the form of factual allegations. *Navajo Nation v. Dep't of the Interior*, 876 F.3d 1144, 1163 (9th Cir. 2017). Mere recitals of the elements of a cause of action, supported by conclusory statements, do not suffice. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A plaintiff must also make sufficient factual allegations to establish a plausible entitlement to relief. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007). A claim is facially plausible when the complaint alleges facts that allow the court to draw a reasonable inference that the defendant is liable for the alleged misconduct. *Iqbal*, 556 U.S. at 678. When the claims have not crossed the line from conceivable to plausible, the complaint must be dismissed. *Twombly*, 550 U.S. at 570.

A. Section 1983 Claims

I previously dismissed the Hawatmehs' § 1983 claims alleging Fourth Amendment seizure using excessive force and Fourteenth Amendment substantive due process violations against the individual officers, and *Monell* liability against the City of Henderson, allowing leave to amend their complaint. ECF No. 54. The Hawatmehs have done so and renew each of their § 1983 claims. I previously set forth the law on the elements of a claim under 42 U.S.C. § 1983, qualified immunity, and probable cause. *See id.* at 5. I incorporate that law in this order.

1. Excessive Force

I previously dismissed the Hawatmehs' excessive force claims and the *Monell* claims based on the alleged excessive force because the complaint failed to plausibly allege that Joseph

1 was seized under the Fourth Amendment, and even if he was seized, the individual officers were
2 entitled to qualified immunity. *Id.* at 10. After amendment, the Hawatmehs² argue that they have
3 plausibly alleged that Joseph was seized when: (1) the police surrounded the Escalade and
4 blocked the exits with their vehicles, (2) Smith told Joseph to put his hands in the air and Joseph
5 did so, and (3) the police fired at the Escalade. The defendants argue that Joseph’s status as a
6 hostage meant that the police could not seize him through these actions because police actions
7 aimed at liberating a hostage are directed solely at the hostage taker even if they incidentally
8 harm the hostage. They also argue that even if Joseph was seized, the law was not clearly
9 established, so the officers are entitled to qualified immunity.

10 This case implicates various threads of Fourth Amendment case law because it involves
11 the determination of when a hostage in a stationary vehicle is seized by police trying to rescue
12 him. A person is seized under the Fourth Amendment when an officer either applies physical
13 force or acquires control over that person. *California v. Hodari D.*, 499 U.S. 621, 626 (1991). A
14 seizure by physical force requires “the use of force *with intent to restrain*. Accidental force will
15 not qualify.” *Torres v. Madrid*, 592 U.S. 306, 317 (2021) (emphasis in original). “Nor will force
16 intentionally applied for some other purpose satisfy this rule.” *Id.*

17 “Unlike a seizure by force, a seizure by acquisition of control involves either voluntary
18 submission to a show of authority or the termination of freedom of movement.” *Id.* at 322. For
19 seizure by voluntary submission to a show of authority, “there is no seizure without actual
20 submission.” *Cuevas v. City of Tulare*, 107 F.4th 894 (9th Cir. 2024) (quotation omitted).
21 Seizure by restriction of movement requires that “a person be stopped by the very instrumentality
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23 ² Only Iehab as the appointed administrator of Joseph’s estate brings the Fourth Amendment
excessive force claims on Joseph’s behalf.

1 set in motion or put in place in order to achieve that result,” such as crashing into a police
2 roadblock, ramming a car off road, or locking a person in a room. *Torres*, 592 U.S. at 322
3 (quotation omitted).

4 When police make a traffic stop of a vehicle, passengers are seized along with the driver.
5 *Brendlin v. California*, 551 U.S. 249, 257, 260 (2007). All passengers are seized even if they are
6 not the target of the stop because a “passenger will expect to be subject to some scrutiny, and his
7 attempt to leave the scene would be so obviously likely to prompt an objection from the officer
8 that no passenger would feel free to leave in the first place.” *Id.* at 257. The seizure turns not on
9 the officers’ subjective intent in seizing the passenger, but the objective “intent that has been
10 conveyed to the person confronted.” *Id.* at 260-61 (simplified). A passenger is seized along with
11 the driver even when the driver is seized by force. *Cuevas*, 107 F.4th at 899 (holding that, in the
12 context of a vehicle stop where the driver was attempting to flee by driving away, the passenger
13 was seized when the officer used physical force on the driver by instructing a K-9 to bite the
14 driver); *see also Villanueva v. California*, 986 F.3d 1158, 1167 (9th Cir. 2021) (holding that a
15 passenger was seized when the police accidentally shot the passenger while shooting to stop the
16 car he was in).

17 A hostage, however, is under the control of the hostage taker. When police seize a
18 hostage taker by restricting his freedom of movement, such as by surrounding a house, the
19 hostages are not seized because there is “no reason for [the hostages] to believe that the police
20 were preventing them from leaving the house. In fact, it was the clear objective of the police to
21 remove them from the house and remove them from the control of [the hostage taker]. Their
22 movement was restrained by [the hostage taker], not by the police.” *Ewolski v. City of*
23 *Brunswick*, 287 F.3d 492, 507 (6th Cir. 2002). Even a person who may briefly be seized through

1 submission to police authority is no longer seized when they are subsequently taken hostage. *See*
 2 *Schaefer v. Goch*, 153 F.3d 793, 794-97 (7th Cir. 1998) (holding that even if a bystander was
 3 seized when she complied with a police order to get down, that seizure ended when the suspect
 4 started to drag her inside a home while brandishing a gun).

5 The First, Second, and Tenth Circuits have each held that police do not seize a hostage
 6 when they shoot at a vehicle to stop the hostage taker. *Landol-Rivera v. Cruz Cosme*, 906 F.2d
 7 791, 798 (1st Cir. 1990); *Medeiros v. O’Connell*, 150 F.3d 164, 168 (2d Cir. 1998); *Childress v.*
 8 *City of Arapaho*, 210 F.3d 1154, 1157 (10th Cir. 2000). Each of these cases relied on *Brower v.*
 9 *County of Inyo*, 489 U.S. 593, 596-97 (1998) to focus on the subjective intent of the officers in
 10 seizing the suspect, and not the hostage. *See e.g., Childress*, 210 F.3d at 1156-57. They predate
 11 *Brendlin’s* holding that a traffic stop seizes the driver and all passengers because of the objective
 12 intent police communicate to the passengers. 551 U.S. at 260-61. Whether *Brendlin* changes the
 13 earlier vehicular hostage cases remains unsettled, but no court has concluded that a hostage
 14 would be seized under these circumstances.³

15 In *Villanueva*, which post-dates *Brendlin*, the Ninth Circuit held that a passenger was
 16 seized when the officers shot that passenger accidentally while shooting to stop the car. 986 F.3d
 17 at 1167. But the Ninth Circuit distinguished such a case from “the very different situation where
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19 ³ *See Fagre v. Parks*, 985 F.3d 16, 22 n.2 (1st Cir. 2021) (declining to address whether *Brendlin*
 20 may require the First Circuit to reconsider its hostage decision in *Landol-Rivera* because the case
 21 could be resolved on other grounds); *Cooper v. Rutherford*, 503 Fed. Appx. 672, 675-76 (11th
 22 Cir. 2012) (remarking that there is a difference when an innocent bystander or hostage is
 23 accidentally shot as opposed to a passenger while holding that the law was not clearly
 established for qualified immunity purposes); *Rodriguez v. Passinault*, 637 F.3d 675, 686-87 (6th
 Cir. 2011) (holding that stopping a car by shooting the driver is a seizure of all passengers, but
 distinguishing the hostage situation because “there is no intentional acquisition of physical
 control of the hostage; rather the intention of the officer is manifestly not to seize, but rather to
 liberate the hostage”).

1 the passenger was also a hostage and the officers were trying to rescue the passenger, not arrest
2 him.” *Id.* At least one other district court has declined to extend *Brendlin* to police accidentally
3 shooting a hostage inside a moving vehicle. *Browell v. Davidson*, 595 F. Supp. 2d 907, 916
4 (N.D. Ind. 2009) (finding that because a hostage’s “freedom was terminated by the hostage-taker
5 and is in the car involuntarily,” they are not seized when the police fire on the car).

6 The Hawatmehs argue that Joseph was seized when the officers surrounded the vehicle.
7 In response to my previous order dismissing their claims, the FAC includes additional facts
8 describing the measures HPD officers took to box in the Escalade and its occupants. ECF No. 59
9 at 15-16. Similar to officers surrounding a home in the hostage standoff in *Ewolski*, the HPD
10 officers likely seized Bourne when they surrounded the Escalade, restricting Bourne’s freedom
11 of movement. But Joseph, as a hostage, remained detained at gunpoint by Bourne, not by the
12 officers. A person is seized after an intentional show of authority when “in view of all of the
13 circumstances surrounding the incident, a reasonable person would have believed that he was not
14 free to leave.” *Brendlin*, 551 U.S. at 255 (quotation omitted). But a reasonable hostage would
15 welcome the arrival of police to liberate him, and the HPD officers even encouraged Joseph to
16 exit the vehicle. ECF No. 59 at 37. Even accepting the FAC’s allegations as true, Joseph would
17 have believed he was not free to leave because of Bourne, not because of the officers there to
18 rescue him. Joseph was not seized when the officers surrounded the vehicle.

19 Next the Hawatmehs argue that Joseph was seized when he raised his arms in response to
20 Smith’s command. Joseph raised his hands after Smith shouted, “[I]et me see your hands, both
21 of you. Put your hands up, exit the vehicle.” *Id.* An innocent bystander may become seized
22 when they submit to police orders. *See Corbitt v. Vickers*, 929 F.3d 1304, 1313-14 (11th Cir.
23 2019) (holding that a bystander child was seized when he obeyed a police order to get on the

1 ground and was then accidentally shot by an officer serving an arrest warrant). Joseph, however,
 2 was not a bystander, he was a hostage. He could not fully submit to the police orders to exit the
 3 vehicle because he remained held at gunpoint by Bourne. Bourne, not the HPD, retained control
 4 of Joseph, so Joseph was not seized when he raised his hands, or, if he was, that seizure lasted
 5 only a moment because he thereafter did not follow Smith's direction to exit the car due to
 6 Bourne holding him at gunpoint. *See Schaefer*, 153 F.3d at 796-97 ("It is difficult to see how,
 7 even assuming that a seizure took place when Kathy complied with the officers' commands, that
 8 seizure could be seen as continuing once John began to pull Kathy back inside.").

9 Finally, the Hawatmehs renew their argument that Joseph was seized when he was
 10 accidentally shot by the officers. But a seizure by force requires the intent to restrain. *Torres*,
 11 592 U.S. at 317. Thus, an officer who intentionally fires at a suspect but hits an innocent
 12 bystander does not seize the bystander, because the bystander was not the intended object of the
 13 force.⁴ By contrast, an officer who intentionally fired at a hostage she mistook for a suspect
 14 seized the hostage, because the hostage was the intended object of the officer's force. *Huff v.*
 15 *Reeves*, 996 F.3d 1082, 1088-89 (10th Cir. 2021). Here the HPD officers intended to shoot only
 16 Bourne, who they had properly identified as sitting in the driver seat. That Bourne and Joseph
 17 were inside a vehicle does not change this analysis. Both *Villanueva* and *Cuevas* involved the

19 ⁴ *See, e.g., Brower*, 489 U.S. at 596-97 (distinguishing between government acts aimed at
 20 producing a particular result and those that simply cause a particular result); *United States v.*
 21 *Lockett*, 919 F.2d 585, 590 n.4 (9th Cir. 1990) (noting an innocent bystander struck by an
 22 officer's stray bullet aimed at a suspect would not have a Fourth Amendment claim); *Arruda ex*
 23 *rel. Arruda v. Cnty. of Los Angeles*, 373 F. App'x 798, 799-800 (9th Cir. 2010) (officer struck by
 another officers' stray bullet was not seized); *Rodriguez v. City of Fresno*, 819 F. Supp. 2d 937,
 948 (E.D. Cal. 2011) (bystander shot in police crossfire aimed at suspect was not seized); *Rucker*
v. Harford Cnty., 946 F.2d 278, 280-81 (4th Cir. 1991) (same); *Claybrook v. Birchwell*, 199 F.3d
 350, 354, 359 (6th Cir. 2000) (same); *Bublitz v. Cottey*, 327 F.3d 485, 489 (7th Cir. 2003)
 (bystanders injured by suspect's car after police deployed tire spikes were not seized).

1 police stopping a car that was fleeing or attempting to flee and thus seizing all passengers.⁵ But
2 this incident was more analogous to the police surrounding a building or confronting a hostage
3 taker in the open because the FAC alleges Bourne never moved the car or attempted to flee.

4 I previously rejected the Hawatmehs' theory that Joseph went from being a hostage to a
5 passenger in the two seconds between Pendleton's initial shot and the volley of shots from the
6 other officers. ECF No. 54 at 10. And no new allegations would support a reasonable inference
7 that the firing officers were aware that Bourne was no longer a threat to Joseph. I agree with the
8 great weight of authority holding that a hostage accidentally injured by police force aimed at his
9 captor is not seized within the meaning of the Fourth Amendment.⁶ Joseph was not seized when
10 the officers fired on Bourne.

11 Even viewing the allegations in the light most favorable to the plaintiffs, Joseph was not
12 seized when officers surrounded the Escalade, when Smith instructed him to raise his hands, or
13 when he was shot. But even if he was seized, the officers would be entitled to qualified
14 immunity. I previously held that the officers in this case should receive qualified immunity, and
15 the Hawatmehs have not identified a case that would have placed the officers on notice that their
16 conduct would violate the Fourth Amendment under these circumstances. The Hawatmehs rely
17 only on cases stating the broad principle that "police officers cannot shoot a person if he does not
18 pose an immediate risk of harm to an officer or third party." ECF No. 64 at 19. To reach this
19 conclusion, they assert that Pendleton's initial shot killed Bourne so he ceased being any threat to
20 Joseph, making the subsequent shots two seconds later unjustified. *Id.* But this is too broad a
21 statement to clearly establish the law in this case. The FAC does not allege any facts to plausibly

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⁵ *Villanueva*, 986 F.3d at 1167; *Cuevas*, 107 F.4th at 899.

23 ⁶ *Landol-Rivera*, 906 F.2d at 795; *Medeiros*, 150 F.3d at 168; *Childress*, 210 F.3d at 1156-57;
Schaefer, 153 F.3d at 796-97.

1 suggest that any of the officers firing in the second volley knew that Bourne had been killed and
2 ceased to be a threat. The unsettled nature of the law on seizures in hostage-taking cases
3 discussed above demonstrates that the law is not so clearly established that every reasonable
4 official in these officers' shoes would know their conduct violated the Fourth Amendment. I
5 therefore dismiss the § 1983 excessive force claims. While the facts of this case are undeniably
6 tragic, the Fourth Amendment is not the proper tool to address them.

7 2. Substantive Due Process

8 I previously dismissed the Hawatmehs' Fourteenth Amendment substantive due process
9 claims because the claims failed to satisfy the intent-to-harm standard and because the officers
10 were entitled to qualified immunity. The Hawatmehs renew their substantive due process
11 claims⁷ by arguing that Wilkins' assessment that the scene was not "fast-moving" demonstrates
12 that there was time for deliberation prior to the shooting. The defendants maintain that the scene
13 required split-second decision-making and even if there were a due process violation, the officers
14 are entitled to qualified immunity. Because the FAC does not change the fact that officers were
15 reacting to a rapidly evolving situation and did not act with a purpose to harm Joseph, the FAC
16 fails to plausibly allege a Fourteenth Amendment violation.

17 To state a claim for a substantive due process violation, the Hawatmehs must allege that
18 the officers' actions "shock[ed] the conscience." *Nicholson v. City of Los Angeles*, 935 F.3d 685,
19 692 (9th Cir. 2019) (quotation omitted). This is a high bar, referring to "only the most egregious
20 official conduct." *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). If officers had time
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22 ⁷ Specifically, Iehab, as the appointed administrator of Joseph's estate, asserts a claim against the
23 defendants for depriving Joseph of his right to life under the Fifth and Fourteenth Amendments.
ECF No. 59 at 54-55. And Iehab, as Joseph's father, asserts a claim against the defendants for
depriving him of his right to familial companionship. *Id.* at 59-60.

1 to deliberate before acting, their deliberate indifference may shock the conscience if the plaintiff
2 can show officers “disregarded a known or obvious consequence” of their actions. *Nicholson*,
3 935 F.3d at 692-93 (quotation omitted). By contrast, if the situation escalated so quickly that
4 officers had to make a snap judgment, then their actions will shock the conscience only if
5 officers “acted with a purpose to harm for reasons unrelated to legitimate law enforcement
6 objectives.” *Porter v. Osborn*, 546 F.3d 1131, 1142 (9th Cir. 2008). “Deliberation” is not meant
7 in a “narrow, technical sense,” as when a shooter thinks in the seconds before firing a shot.
8 *Lewis*, 523 U.S. at 851 n.11. “Actual deliberation” is not possible if officers were forced to make
9 their decision “in haste, under pressure, and [] without the luxury of a second chance.” *Id.* at 853
10 (quotation omitted). Rather, actual deliberation refers to situations where officers can make
11 “unhurried judgments, upon the chance for repeated reflection, largely uncomplicated by the
12 pulls of competing obligations.” *Id.*

13 The Hawatmehs argue that the deliberate indifference test applies because Wilkins
14 opined that the scene was not “fast-moving,” the officers were trained to wait for SWAT, and the
15 officers accelerated the threat to Joseph by closing in around Bourne. But Wilkins’ opinion does
16 not change the objective facts in the FAC. The officers knew that Bourne had a gun and had
17 already shot multiple people. ECF No. 59 at 36. They knew Bourne held Joseph hostage in a
18 vehicle and was making threats to shoot him while not responding to officer commands. *Id.* at
19 36-38. Smith saw a gun and Joseph with his hands up. *Id.* at 37. From the moment the officers
20 identified the Escalade with Bourne and Joseph to the time the shots were fired, fewer than six
21 minutes had elapsed. *Id.* at 36-39. And during that time, officers had overlapping radio
22 communications and on-scene commands as they maneuvered to contain Bourne and rescue
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1 Joseph. *Id.* This was a scene demanding decisions made in haste, under pressure, and without
2 the luxury of a second chance. Consequently, the deliberate indifference test is inapplicable.

3 Because the deliberate indifference test does not apply, the Hawatmehs must satisfy the
4 intent-to-harm test to plead a plausible claim. The FAC adds no new facts, and the Hawatmehs
5 make no argument, to show that the police acted with an intent to harm Joseph unrelated to
6 legitimate law enforcement objectives. The Hawatmehs also did not respond to my previous
7 ruling that even under the deliberate indifference test, the officers would be entitled to qualified
8 immunity. The Hawatmehs do not point to, and I have not found, a case holding that officers
9 who unintentionally shoot a hostage in similar circumstances violate the Fourteenth Amendment.
10 As a result, the Hawatmehs have not plausibly alleged that the officers shot with an intent to
11 harm Joseph. But even if the officers could be found to have acted with deliberate indifference,
12 they are entitled to qualified immunity. I therefore dismiss the Hawatmehs' Due Process Claims.

13 3. Monell Liability

14 I previously dismissed the Hawatmehs' *Monell* claims because they failed to plausibly
15 allege a federal constitutional violation. ECF No. 54 at 14. Because the FAC still does not allege
16 such a violation, I again dismiss the Hawatmehs' *Monell* claims.

17 **B. State Law Claims**

18 I previously advised the parties that if the Hawatmehs failed to plausibly allege a federal
19 claim, I was not inclined to exercise supplemental jurisdiction over their state law claims. ECF
20 No. 54 at 15-16. Because I once again dismiss all of the Hawatmehs' federal claims, I decline to
21 exercise supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367(c). I
22 incorporate my prior analysis and find that the state law claims raise unresolved issues of state
23 law that are best determined by Nevada courts. Declining jurisdiction would serve "the

1 principles of economy, convenience, fairness, and comity” *Carnegie-Mellon Univ. v. Cohill*,
2 484 U.S. 343, 357 (1988); *see also* ECF No. 54 at 16-17.

3 **III. CONCLUSION**

4 I THEREFORE ORDER that the defendants’ motion to dismiss (**ECF No. 60**) is
5 **GRANTED in part**. I grant summary judgment in the defendants’ favor on the plaintiffs’
6 claims under 42 U.S.C. § 1983. I dismiss the plaintiffs’ state law claims without prejudice to the
7 plaintiffs pursuing those claims in state court.

8 I FURTHER ORDER the clerk of court to enter judgment in favor of the defendants and
9 against the plaintiffs on the plaintiffs’ federal claims under 42 U.S.C. § 1983, but the plaintiffs’
10 state law claims are dismissed without prejudice to the plaintiffs pursuing those claims in state
11 court.

12 DATED this 18th day of September, 2024.



14 ANDREW P. GORDON
15 UNITED STATES DISTRICT JUDGE
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